

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3-1-13

UNITED STATES OF AMERICA

-v-

JERMAINE DORE and DWAYNE
BARRETT,

Defendants.

No. 12 Cr. 45 (RJS)

ORDER

RICHARD J. SULLIVAN, District Judge:

The Court has considered both parties' briefs and the oral argument on Defendants' motions *in limine* concerning the government's proposed ballistics expert.

Accordingly, IT IS HEREBY ORDERED that the government's witness, Detective Jonathan Fox, shall be precluded from offering an expert opinion at trial pursuant to Federal Rule of Evidence 702 until the Court is able to conduct a *Daubert* hearing on the following issues concerning his anticipated testimony that the shells in question were fired by the same gun:

(i) whether the testimony is based on sufficient facts or data; (ii) whether the testimony is the product of reliable principles and methods; and (iii) whether the expert has reliably applied the principles and methods to the facts of the case.

The hearing shall include an opportunity for Defendants to examine the witness on the enumerated issues, but for no more than thirty minutes.

The Court is available on Monday, March 4, 2013 at 9:15 a.m. to hold the aforementioned hearing. The government shall notify the Court and Defendants no later than 12:00 p.m. on Sunday, March 3, 2013 as to whether Detective Fox is prepared to proceed with

this hearing on the morning of March 4. In the case that he is unavailable, the government shall propose a time prior to Detective Fox's anticipated testimony during which the hearing can be conducted.

SO ORDERED.

Dated: March 1, 2013
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE